

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, APRIL 5, 2006**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of April 5, 2006, was called to order by Mayor Hitchcock at 5:30 p.m.

Present: Council Members – Hansen, Johnson, Mounce, and Mayor Hitchcock

Absent: Council Members – Beckman*

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Blackston

*NOTE: Council Member Beckman was absent due to his attendance at the San Joaquin Council of Governments One Voice event in Washington D.C.

C-2 ANNOUNCEMENT OF CLOSED SESSION

- a) Actual litigation: Government Code §54956.9; three applications; Steve Morrison v. City of Lodi; WCAB case numbers STK164756 - 1/31/1999, STK164757 - 10/24/2000, and STK164758 - 12/4/2000.
- b) Conference with legal counsel – anticipated litigation – significant exposure to litigation pursuant to subdivision (b) of Section 54956.9; one case; pursuant to Government Code §54956.9(b)(3)(B) regarding exposure to workers compensation claim by *Donald Hawkinson*; WCAB case number STK74262 – 1/25/1989
- c) Actual litigation: Government Code §54956.9(a); one case; People of the State of California; and the City of Lodi, California v. M & P Investments, et al.; United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM
- d) Pursuant to Government Code §54956.9(c); conference with legal counsel – anticipated litigation/initiation of litigation – regarding County of San Joaquin EMS Order to change 911 Fire Dispatch Providers; one potential case

C-3 ADJOURN TO CLOSED SESSION

At 5:30 p.m., Mayor Hitchcock adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 7:00 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:06 p.m., Mayor Hitchcock reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following actions.

In regard to Items C-2 (a), (b), and (c), no reportable action was taken in closed session.

In regard to Item C-2 (d), Council directed the City Attorney's Office to file an action for declaratory relief against the County of San Joaquin in its order that the City change its secondary public safety answering point (its 911 call reception) from County Fire Emergency Medical Services to a private company (American Medical Response), in the event Stockton sues or AT&T switches without the City's consent.

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of April 5, 2006, was called to order by Mayor Hitchcock at 7:06 p.m.

Present: Council Members – Hansen, Johnson, Mounce, and Mayor Hitchcock

Absent: Council Members – Beckman*

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Blackston

*NOTE: Council Member Beckman was absent due to his attendance at the San Joaquin Council of Governments One Voice event in Washington D.C.

B. INVOCATION

The invocation was given by Pastor Jon Terry, Fairmont Seventh Day Adventist Church.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Hitchcock.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 (a) Juan Villarreal, President of the Library Board of Trustees, presented the 2006 Bob Hildreth Library Volunteer of the Year award to Marjorie Paulsen.

D-2 (a) Mayor Hitchcock presented a proclamation to Richard Jones, Executive Director of the Lodi Boys and Girls Club, proclaiming the week of April 2 – 7, 2006, as “National Boys and Girls Club Week” in the City of Lodi.

D-2 (b) Mayor Hitchcock presented a proclamation to Christine Wied with Central Valley Waste Services proclaiming April 21, 2006, as “National Clean Your Files Day” in the City of Lodi.

D-2 (c) Mayor Hitchcock presented a proclamation to Lieutenant Bryan Noblett, along with representatives from the Lodi Police Dispatchers Association, proclaiming the week of April 9 – 15, 2006, as “National Telecommunicators Week” in the City of Lodi.

D-2 (d) Mayor Hitchcock presented a proclamation to William Mitchell, Director of Public Health Services with San Joaquin County Health Education Services, proclaiming the week of April 3 – 9, 2006, as “Public Health Week” in the City of Lodi.

D-2 (e) Mayor Hitchcock presented a proclamation to Paula Grech with the Women’s Center of San Joaquin County proclaiming the month of April 2006 as “Sexual Assault Awareness Month” in the City of Lodi.

D-3 (a) City Clerk Blackston gave an update on the Centennial activities being planned for 2006. Chuck Easterling, President of the Downtown Lodi Business Partnership, reported that special Lodi Centennial banners will be displayed in the downtown area throughout the remainder of the year.

E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Council Member Mounce, Hitchcock second, approved the following items hereinafter set forth **except those otherwise noted** by the vote shown below:

Ayes: Council Members – Hansen, Johnson, Mounce, and Mayor Hitchcock

Noes: Council Members – None

Absent: Council Members – Beckman

E-1 Claims were approved in the amount of \$9,174,278.13.

E-2 The minutes of February 15, 2006 (Regular Meeting) were approved as written.

E-3 “Approve plans and specifications and authorize advertisement for bids for Playground Improvements at Blakely Park, 1050 South Stockton Street” was **removed from the Consent Calendar and was discussed and acted upon following approval of the Consent Calendar.**

E-4 Approved the plans and specifications and authorized advertisement for bids for White Slough Water Pollution Control Facility Drainage Modifications.

E-5 Adopted Resolution No. 2006-48 approving plans and specifications, authorizing advertisement for bids for the Lockeford Street and Sacramento Street Traffic Signal and Lighting Project, and authorizing the City Manager to execute all necessary agreements to implement the project.

- E-6 Approved the specifications and authorized advertisement for bids for 15,000 feet of #1/0 600-volt underground triplex.
- E-7 Adopted Resolution No. 2006-49 approving request for proposals (RFP), authorizing advertisement of RFP for the Transit Shelters and Amenities Project, and authorizing the City Manager to award contract(s), not to exceed \$225,000.
- E-8 Adopted Resolution No. 2006-50 awarding the contract for White Slough Water Pollution Control Facility Holding Pond No. 1 Rehabilitation, 12751 North Thornton Road, to Delta Oilfield Services, Inc., of Woodland, in the amount of \$167,500, and appropriating funds in the amount of \$175,000.
- E-9 "Adopt resolution accepting improvements for the Harney Lane Canal Crossing Project and appropriating additional funds for applicable reimbursements (\$45,890)" was ***pulled from the agenda pursuant to staff's request.***
- E-10 Adopted Resolution No. 2006-51 of Vacation to abandon the south seven feet of an existing ten-foot public utility easement at 1305 East Vine Street.
- E-11 Adopted Resolution No. 2006-52 amending Resolution 2006-14 by changing the 2005-06 Transportation Development Act Claim amendment total claim to \$2,874,887.
- E-12 Adopted Resolution No. 2006-53 authorizing the City Manager to execute a license agreement with Tony Segale, Segale Fine Arts and Gold Leaf Company, for use of the Centennial logo.
- E-13 "Adopt resolution in support of Senate Bill 1554 regarding local publicly-owned electric utilities: cost responsibility surcharge (exit fees)" was ***removed from the Consent Calendar and discussed and acted upon following adoption of the Consent Calendar.***

ACTION ON ITEMS REMOVED FROM CONSENT CALENDAR

- E-3 "Approve plans and specifications and authorize advertisement for bids for Playground Improvements at Blakely Park, 1050 South Stockton Street"

Mayor Pro Tempore Johnson asked whether the playground improvements are being done to accommodate the proposed Community Partnership for Families building, which he pointed out is only in the conceptual phase and has not yet been approved.

In response to questions posed by Council Members, Parks Superintendent Steve Dutra explained that the playground equipment is in need of being replaced whether or not the Community Partnership building is constructed. The equipment is out of compliance with current codes and regulations, and it cannot be replaced in the same location it is currently in.

Council Member Hansen recalled that he provided updates at several Council meetings about the Community Partnership's hope to build a family resource center adjacent to the Boys & Girls Club building with funding provided by the S.H. Cowell Foundation. The use of the park land has been considered by the Parks & Recreation Commission and soon will be brought before Council.

In reply to Mayor Hitchcock, Mr. Dutra stated that the trees are being removed to accommodate the playground equipment.

MOTION / VOTE:

The City Council, on motion of Council Member Mounce, Hansen second, approved the plans and specifications and authorized advertisement for bids for Playground Improvements at Blakely Park, 1050 South Stockton Street. The motion carried by the following vote:

Ayes: Council Members – Hansen, Mounce, and Mayor Hitchcock

Noes: Council Members – Johnson

Absent: Council Members – Beckman

- E-13 “Adopt resolution in support of Senate Bill 1554 regarding local publicly-owned electric utilities: cost responsibility surcharge (exit fees)”

Council Member Hansen explained that “exit fees” Pacific Gas & Electric has proposed would mean that, if the City were to annex additional property, individuals building homes on the property would have to pay a fee to PG&E amounting to a 25% increase in the cost of electricity. Senate Bill 1554 would prevent this from happening.

Electric Utility Director Morrow stated that the “exit fee” would apply to new residents or businesses in annexed areas of Lodi. If existing property owners in the annexed area wanted to receive City services, they would pay an “exit fee” to PG&E and the City would negotiate with PG&E to acquire their facilities that serve those customers.

City Attorney Schwabauer pointed out that PG&E never sized its facilities to serve a development that was eight to ten houses per acre surrounding Lodi. It sized its facilities to accommodate AG-40, which is typically one house per 100 or more acres. Mr. Schwabauer stated that PG&E is proposing to require an exit fee for a residential subdivision, which would never have been built on the outskirts of Lodi.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Johnson second, adopted Resolution No. 2006-54 in support of Senate Bill 1554 regarding local publicly-owned electric utilities: cost responsibility surcharge (exit fees). The motion carried by the following vote:

Ayes: Council Members – Hansen, Johnson, Mounce, and Mayor Hitchcock

Noes: Council Members – None

Absent: Council Members – Beckman

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Barbara Flockhart reported that the Lions Club is offering grant funding for community service projects in the amount of \$10,000 and 100 volunteer hours. She suggested that it be applied for to make improvements at the Grape Bowl. She inquired about redevelopment and eminent domain, following which Mayor Hitchcock asked the City Attorney to meet with Ms. Flockhart to answer her questions.

G. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Mayor Pro Tempore Johnson reported that he recently met with the Lodi Memorial Hospital Foundation. He suggested that a joint meeting be scheduled with the Foundation to discuss the impending expansion to its facility and other matters of mutual interest.
- Council Member Hansen commented that he and Mr. Johnson attended the “guitars not guns” event recently, which he found to be an excellent youth program. Mr. Hansen reported that he was asked to represent the 39 utilities in the state and testify on Monday before the Utilities and Commerce Committee for the California State Assembly. Assembly Member Lloyd Levine, who is sponsoring Assembly Bill 2021, spoke against municipal utilities. Mr. Hansen stated

that in his presentation he countered the allegations and informed those in attendance that municipal utilities are very conscientious about energy efficiency. Senator Kehoe is sponsoring Senate Bill 1037, which requires utilities to compile a report showing what accomplishments have been made toward energy efficiency. Mr. Hansen stated that municipal utilities are "under attack" by investor-owned utilities. He expressed disappointment that the National Organization of the Chamber of Commerce supported the bill and stated that he would speak to the Lodi Chamber of Commerce President about it.

H. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- Mr. King reported that the Electric Utility currently has a BBB+ rating with an outlook of negative. A delegation from Lodi recently went to New York to meet with Wall Street rating agencies to respond to questions and describe plans for the future to improve the financial health of the Electric Utility. In response to that meeting, Fitch released a report discussing what Lodi's strategic plan is and what it reviews the outlook to be. He read the following statement from the report:

Over the next 12 to 18 months, Fitch will monitor Lodi's progress implementing its strategic plan to procure more stable power supply and the City Council's willingness to set and maintain rates to fully recover costs and approve the Utility's finances. Fitch recognizes that the City and the electric system have already taken many positive steps over the past few months. These steps include the City Council passage of a 17% rate increase, the creation of a risk oversight committee and a risk management policy, the authorization from the City Council to procure power beyond the City's current fiscal year, and the recent hiring of a new general manager. If the Utility and the City are able to implement the current financial and power supply plan, a revision of the rating outlook to stable is attainable.

In reply to Mayor Pro Tempore Johnson, Mr. King stated that the Electric Utility's rating was changed from A- to BBB+ on October 28, 2002.

Mr. King reported that staff has been in communication with East Bay Municipal Utility District and the State of California Water Resources Agency and is monitoring the condition of Pardee and Camanche Reservoirs and the Mokelumne River. The City will be prepared to respond to any high water warnings.

I. PUBLIC HEARINGS

None.

J. COMMUNICATIONS

J-1 Claims filed against the City of Lodi – None

J-2 The following postings/appointments were made:

- a) The City Council, on motion of Council Member Hansen, Mounce second, made the following appointment by the vote shown below:

Ayes: Council Members – Hansen, Johnson, Mounce, and Mayor Hitchcock

Noes: Council Members – None

Absent: Council Members – Beckman

Lodi Arts Commission

Petra Gillier Term to expire July 1, 2009

- b) The City Council, on motion of Council Member Mounce, Hitchcock second, made the following appointments to the Northern California Power Agency and the Transmission Agency of Northern California by the vote shown below:

Ayes: Council Members – Hansen, Johnson, Mounce, and Mayor Hitchcock

Noes: Council Members – None

Absent: Council Members – Beckman

Northern California Power Agency

Larry Hansen, Delegate

Susan Hitchcock, Alternate

*George Morrow, Alternate

Transmission Agency of Northern California

*George Morrow, Delegate

*Larry Hansen, Alternate

Susan Hitchcock, Alternate

**Signifies new appointment and change to current service level.*

- c) The City Council, on motion of Council Member Hansen, Mounce second, directed the City Clerk to post for the following vacancy by the vote shown below:

Ayes: Council Members – Hansen, Johnson, Mounce, and Mayor Hitchcock

Noes: Council Members – None

Absent: Council Members – Beckman

Lodi Improvement Committee

Ed Beswick

Term to expire March 1, 2008

J-3 Miscellaneous – None

K. REGULAR CALENDAR

- K-1 “Consider adopting resolution placing the National motto, ‘In God We Trust,’ and the State motto, ‘Eureka,’ on plaques in the Carnegie Forum lobby”

City Manager King stated that Council Member Mounce realized subsequent to the posting of the agenda that Council Member Beckman would not be present and she suggested that this item be carried over to the next regularly scheduled meeting when the full Council would be in attendance.

Council Member Hansen was not in favor of delaying the item. He noted that the staff report suggests that the State motto, “Eureka,” also be added to the plaque, though the “blue sheet” draft resolution does not. He preferred that the plaque only include the National motto, “In God We Trust,” as was recommended at the March 29 meeting.

Mayor Hitchcock commented that if Council Member Beckman had desired to be present for the vote on this matter he would have requested on March 29 that it be held over.

City Attorney Schwabauer believed that, if adopted, the item under consideration would easily pass challenge in the California Supreme Court and Federal Court.

PUBLIC COMMENTS:

- Ken Owens, representing Christian Community Concerns, reported that 16 cities in California have voted to display the National motto in their Council Chambers and all except one were unanimous decisions. He had hoped that all five Council Members would be present to vote on this matter.

MOTION/ VOTE:

The City Council, on motion of Council Member Hansen, Mounce second, adopted Resolution No. 2006-55 to display the National motto, “In God We Trust,” on a plaque in the lobby of Carnegie Forum. The motion carried by the vote shown below:

Ayes: Council Members – Hansen, Johnson, Mounce, and Mayor Hitchcock

Noes: Council Members – None

Absent: Council Members – Beckman

RECESS

At 8:37 p.m., Mayor Hitchcock called for a recess, and the City Council meeting reconvened at 8:46 p.m.

K. REGULAR CALENDAR (Continued)

K-2 "Introduce ordinance amending Lodi Municipal Code Title 1 – General Provisions – by creating Chapter 1.10, 'Administrative Enforcement Provisions,' and introduce ordinance repealing in its entirety Chapter 2.34, 'Administrative Procedures for Administrative Proceedings,' and repealing and reenacting sections of Title 15 – Buildings and Construction – Chapters 15.04 through 15.30 of the codes of the City of Lodi and all other ordinances and parts of ordinances in conflict therewith to add administrative citation and hearing procedures"

Joseph Wood, Community Improvement Manager, reviewed the following from the proposed ordinance:

- Article I – Purpose and authority for implementing the program, provides key definitions, and establishes code enforcement fees to cover the cost of enforcement action and administrative hearings.
- Article II – Establishes the procedure for issuance of notices of violation, provides for a clear document to be recorded against the property listing the violations, provides for the issuance and recordation of notices of compliance, and an appeal process.
- Article III – Establishes procedure for appeals process, fines of \$100, \$250, and \$500 for first, second, and third citations, and provides for an alternative educational program for first offenders.
- Article IV – Provides clear procedures for administrative abatement, towing of vehicles, administrative action, and summary abatement.
- Article V – Provides procedure for civil penalties and hearing process.
- Article VI – Establishes procedures regarding conduct of administrative hearings. He noted that a policy and procedures manual will be established.

Council Member Hansen hoped that the procedures were not too bureaucratic and that staff brings a level of common sense to the processes.

Council Member Mounce spoke in favor of the ordinance noting that it provides for consequences that were not in place before.

Mayor Hitchcock stated that the ordinance should be consistently enforced to maintain the integrity of the process.

MOTION / VOTE:

The City Council, on motion of Council Member Mounce, Hitchcock second, introduced the following ordinances:

- Ordinance No. 1777 entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 1 – General Provisions – by Creating and Adding Chapter 1.10, 'Administrative Enforcement Provisions'; and
- Ordinance No. 1778 entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code by Repealing Chapter 2.34, 'Administrative Procedures for Administrative Proceedings,' In Its Entirety; Repealing and Reenacting Section 3.01.460, Business Tax Certification – 'Enforcement'; Repealing and Reenacting Section 10.56.020 (J), (K), and (L)-(1), Removal of Vehicles – 'Removal from Private Property'; Amending Building Code Section 15.04.060, 'Violation-Misdemeanor,' by Adding Section (C); Repealing and Reenacting Chapter 15.24, 'Housing Code,' Sections 15.24.30 – 15.24.70 and Sections 15.24.090 – 15.24.100; Repealing and Reenacting Sections 15.28.030, 15.28.070, 15.28.080, 15.28.090, 15.28.100, 15.28.120, and 15.28.140, Relating to the Abatement of Dangerous Buildings Code;

Repealing Sections 15.30.040 – 15.30.220 and Reenacting Sections 15.30.040 – 15.30.060 Relating to Property Maintenance and the Designation of Certain Kinds of Nuisances; and Amending Chapter 15.31, 'Weed and Refuse Abatement,' by Adding Sections 15.31.150 – 15.31.170."

The above motion carried by the following vote:

Ayes: Council Members – Hansen, Johnson, Mounce, and Mayor Hitchcock

Noes: Council Members – None

Absent: Council Members – Beckman

- K-3 "Approve City-Sponsored Centennial Events Planned to Date and Authorize the City Manager Discretion to Consider Future Ancillary Details Associated with Said Events"

City Manager King stated that the City Clerk has taken on the duty of planning a series of events throughout the City's Centennial year and volunteers have offered to provide assistance. Staff requests that Council endorse these events as official Centennial activities.

City Clerk Blackston reported that two large events are being planned: 1) Wall Dogs mural painting event to be held on Memorial Day weekend, and 2) A Heritage Celebration that will take place on August 19 to 21, which is being planned by former City Clerk Alice Reimche and a subcommittee she formed. The Centennial Task Force is a group of volunteers formed through the Lodi Tokay Rotary Club to assist with creating and planning community events to celebrate the Centennial year. If Council approves this proposal, the costs the City would absorb include Public Works overtime related to street closures and security, staff, and janitorial services at Hutchins Street Square. In addition, event organizers have requested that liability insurance be provided without cost and that facility fees be waived for these events. Ms. Blackston noted that a great amount of effort has been devoted by individuals in organizing and soliciting private funding for these events, which will benefit the entire community. Staff recommends that the events be City sponsored and that the City Manager be given discretion to consider future requests as plans proceed.

Mayor Pro Tempore Johnson inquired if staff could be asked to volunteer time, to which Mr. King explained that the Fair Labor Standards Act and time and wage laws create obstacles. It becomes difficult to draw the line where someone is volunteering their time versus being coerced into providing their labor for free. The City cannot ask someone to volunteer their time for something they are normally compensated for.

Mayor Hitchcock asked what "discretion" is being asked for the City Manager to have, to which Ms. Blackston replied that some Centennial events are only in the beginning stages of planning and are subject to change as things proceed. She stated that it is unlikely the City's funding toward these events would increase beyond the estimates listed in the staff report.

Mr. King stated that the City does not have a budget for special events. There is a category where charges can be deducted by departments who engage in activities to support special events; however, it is hoped that the Centennial events would be self supporting.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Johnson, Mounce second, approved the City-sponsored Centennial events planned to date and authorized the City Manager discretion to consider future ancillary details associated with said events. The motion carried by the following vote:

Ayes: Council Members – Hansen, Johnson, Mounce, and Mayor Hitchcock

Noes: Council Members – None

Absent: Council Members – Beckman

- K-4 "Approve expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation (\$139,719.29)"

City Attorney Schwabauer reviewed expenses incurred by outside counsel/consultants as was outlined in the staff report.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Mounce second, approved the expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation in the amount of \$139,719.29, as detailed below. The motion carried by the following vote:

Ayes: Council Members – Hansen, Johnson, Mounce, and Mayor Hitchcock

Noes: Council Members – None

Absent: Council Members – Beckman

Folger Levin & Kahn - Invoices Distribution

Matter No.	Invoice No.	Date	Description	Total Amount
8001	93894	2/28/2006	General Advice/Environmental Matters	\$ 422.86
8002	93892	2/28/2006	People v. M&P Investments	\$ 20,829.66
				(\$ 487.50)
8003	93893	2/28/2006	Hartford Insurance Coverage Litigation	\$ 78,415.21
				(\$ 3,870.00)
8008	93895	2/28/2006	City of Lodi v. Envision Law Group	<u>\$ 15,537.08</u>
				<u>\$110,847.31</u>

Folger Levin & Kahn - Invoices Distribution

Invoice No.	Date	Description	Total Amount
6114	01/31/06	Peter Krasnoff, Expert	\$ 8,385.00
12984	01/29/06	Keith O'Brien, Hydrogeologist	\$ 15,853.61
13018	02/26/06	Keith O'Brien, Hydrogeologist	<u>\$ 900.00</u>
			<u>\$ 25,138.61</u>

Kronick Moskovitz Tiedemann & Girard - Invoices Distribution

Matter No.	Invoice No.	Date	Description	Total Amount	Distribution
					<u>100351.7323</u>
					<u>183453.7323</u>
11233.001	224087	02/25/06	General advice	\$1,305.40	\$1,305.40
11233.026	224087	02/25/06	Lodi First v. City of Lodi	\$2,246.92	\$2,246.92
11233.027	224087	02/25/06	Citizens for Open Govt. v. City of Lodi	\$ 181.05	\$ 181.05
				<u>\$3,733.37</u>	<u>\$2,427.97</u>
					<u>\$1,305.40</u>

L. ORDINANCES

None.

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 9:21 p.m.

ATTEST:

Susan J. Blackston
City Clerk